



## STATE OF NEW JERSEY

FINAL ADMINISTRATIVE  
ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Violations Clerk  
(M0432V), Millville

CSC Docket No. 2018-2554

Appointment Waiver

ISSUED: July 24, 2018 (AMR)

Millville requests permission not to make an appointment from the October 16, 2017 certification for Violations Clerk (M0432V).

The record reveals that Millville provisionally appointed Cristina Santiago, pending open-competitive examination procedures to the title of Violations Clerk, effective February 14, 2017. As a result of the provisional appointment, an examination was announced with a closing date of June 22, 2017. The resulting eligible list of eight names, promulgated on October 12, 2017 and expires on October 11, 2020. Santiago applied for the subject examination, was deemed ineligible, and appealed the matter of her ineligibility to the Civil Service Commission. It is noted that the subject examination was processed as a "qualifying unassembled examination" (QUE). Since the examination was conducted as a QUE, no candidate who was admitted to this examination had their experience evaluated for scoring credit. Rather, all of the candidates were assigned the same base score of 76.55 because they satisfied the open competitive requirements for the title.

The appointing authority took no action to obviate the need for the examination at the time of the announcement or prior to the administration of the examination. On October 16, 2017, the names of eight eligibles, were certified from the subject eligible list. While the subject certification was outstanding, based on a clarification of her experience, Santiago's name was added to the eligible list. Thus Santiago's name was not included on the subject certification. The appointing authority returned the certification stating that they were not filling the position at this time. Additionally, it removed Santiago from her provisional appointment and appointed her permanently to the non-competitive title of Keyboarding Clerk 1.

eligible list effective February 21, 2018. Therefore, Millville requests that the subject certification be cancelled as Santiago is now on the list so it may now appoint her.

A review of agency personnel records further reveal that there are no employees in the subject title currently serving provisionally, pending an open competitive examination, with the appointing authority.

### CONCLUSION

In accordance with *N.J.S.A.* 11A:4-5, once the examination process has been initiated due to the appointment of a provisional employee or due to an appointing authority's request for a list to fill a vacancy, the appointing authority must make an appointment from the resulting eligible list if there are three or more interested and eligible candidates. The only exception to this mandate may be made for a valid reason such as fiscal constraints.

In the instant matter, the subject examination was generated as a result of the provisional appointment of Santiago. After a complete certification was issued, the appointing authority indicated that it would not be making any appointments at that time, as Santiago did not appear on the eligible list. Rather, the appointing authority removed Santiago from her provisional appointment of Violations Clerk and appointed her permanently in the title of Keyboarding Clerk 1.

*N.J.S.A.* 11A:3-1 and *N.J.A.C.* 4A:3-3.1(a) provide that each position in the career and unclassified services shall be assigned to a job title. Moreover, *N.J.A.C.* 4A:3-3.4 provides that no person shall be appointed or employed under a title not appropriate to the duties to be performed nor assigned to perform duties other than those properly pertaining to the assigned title which the employee holds. In the instant matter, a review of the announcement for Violations Clerk (M0432V) indicates that it requires two years of experience in recordkeeping or maintenance of records. The appellant provided sufficient clarification in her previous appeal that when she was employed as a Bilingual Legal Secretary by Robert W. Sebera, P.C from June 2013 to February 2017, her duties were that of recordkeeping and maintenance of records, which were consistent with the experience necessary to establish eligibility for the examination.

Initially, Santiago's name was properly added to the subject eligible list, but not the outstanding certification, based on the clarification of her experience in her examination eligibility appeal. Although she timely appealed the matter of her ineligibility to the Commission, that matter was not resolved until after the subject certification was issued. Evidently, this prompted Millville to reassign her duties consistent with the Keyboarding Clerk 1 title while it sought to resolve the matter of the outstanding certification. The Commission has serious concerns with Millville's actions as it appears that Santiago was appointed to the non-competitive Keyboarding Clerk 1 title in order to circumvent Civil Service law and rule by not utilizing the Violation Clerk list. However, as previously noted, this examination was conducted as a QUE, and for purposes of merit and fitness, all candidates, including the appellant, received the same score on their examination. Stated differently, all of the eligibles on the list are equally qualified. The difference in their ranking on the eligible list is solely based on residency status. Further, it cannot be ignored that Santiago timely appealed and, but for the time it took to resolve her appeal, the subject certification had already issued.

Under these circumstances, based solely on equitable considerations, Santiago's name should be added to the subject certification and it be reissued to the appointing authority to properly dispose. This matter shall not be used as precedent in any subsequent matter.

One final comment is warranted in this matter. The Commission in no way condones the actions of the appointing authority in this matter. It is strongly cautioned to ensure that it strictly adhere to Civil Service law and rules in future similar matters. Its failure to do so will subject it to fines or further penalties as outlined in *N.J.A.C. 4A:10-2.1(a)*.

### ORDER

Therefore, it is ordered that Cristina Santiago be added to certification OL171207 and it be reissued to the appointing authority. The appointing authority shall properly dispose of this certification within 30 days of issuance of this decision. As such, its request for an appointment waiver is considered moot.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 18<sup>th</sup> DAY OF JULY, 2018



Deirdre L. Webster Cobb  
Acting Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Christopher S. Myers  
Director  
Division of Appeals and Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P.O. Box 312  
Trenton, New Jersey 08625-0312

c: Pamela Shapiro  
Cristina Santiago  
Kelly Glenn  
Records Center